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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,509	04/05/2001	John Hindman	ODS-37	6107

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EXAMINER

COBURN, CORBETT B

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 04/08/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/827,509

Applicant(s)

HINDMAN ET AL. 

Examiner

Corbett B. Coburn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-62 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5,7. 6) ☐ Other:

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: Device And Method For Showing The Effects Of A Proposed Wager On The Odds In A Pari-Mutuel Pool Prior To Wager Finalization.

### *Claim Objections*

3. Claim 29 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 29 states that the window can be toggled to display the projected odds associated with the proposed wager. Claim 28, from which claim 29 depends, says that the window displays the projected odds. Thus both 28 & 29 claim using the window to display projected odds. This does not further limit the claim.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 29 is rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. Information concerning the second state of the window that critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). Claim 29 states that the window can be toggled to display the projected odds associated with the proposed wager. The word “toggle” implies two states. Claim 28, from which claim 29 depends, says that the window displays the projected odds. So as claimed, the window displays projected odds and toggles to display projected odds. This makes no sense. This is not “toggling”.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-9, 12, 17, 18, 20-22, 30 & 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Hirsimaki (US Patent Number 4,001,551).

**Claims 1, 17:** Hirsimaki teaches a method for providing the projected effects of wagering on pari-mutuel pools to a user in an interactive wagering system. (Abstract)

The user provides input concerning a proposed wager that is associated with at least one

pari-mutuel pool, pari-mutuel pool information, and the current odds for the proposed wager. The device calculates information that affects the user's potential winnings (i.e., the revised odds and payout) based on the user input and provides that information to the user. (Abstract)

**Claims 2, 18:** The user input is a wager amount. (Col 3, 41-45)

**Claims 3, 19:** The user input comprises selection of a wager type (i.e., win, place, or show). (Col 3, 41-47)

**Claims 4-6, 20-22:** Hirsimaki teaches a calculator for figuring the current and projected odds for a particular horse in a particular race. This inherently comprises the selection of at least one horse in a race at a particular race track. Input

**Claim 7:** The information obtained is pari-mutuel pool information. (Abstract)

**Claim 8:** The device can be used to determine current odds on a wager. (Col 3, 6-8)

**Claim 9:** The projected effect the proposed wager can have on the pari-mutuel pool is the projected odds for the proposed wager. (Col 1, 15-20)

**Claims 12, 31:** The projected effects are displayed to the user. (Fig 9)

**Claim 30:** Hirsimaki's device is a computer (i.e., a slide rule).

### ***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 10, 11, 13-16, 23-39 & 32-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hirsimaki as applied to claim 1, 17 above, and further in view of Mindes (US Patent Number 5,573,244).

**Claim 10, 23:** Hirsimaki teaches the invention substantially as claimed, but does not teach a telephone as the user interface. Mindes teaches providing input to a similar system via telephone. (Col 6, 29-32) Mindes describes the use of a digital electronic computer to calculate odds information. Use of a digital computer automates the manual process described in Hirsimaki, but requires an appropriate method of data input. Furthermore, the telephone is a ubiquitous device – virtually every household has one. This allows access to the system by more people, thus increasing the possible profits. It would have been obvious to one of ordinary skill in the art at the time of the invention to have a telephone as a part of the user interface in order to provide an appropriate input device for a digital computer that can automate the manual process described in Hirsimaki while ensuring that most people have access to the system, thus increasing profit potential.

**Claims 11, 14, 16, 24, 25, 27:** Hirsimaki teaches showing the projected effect (i.e., announcing or displaying the projected effect) to the user. (Fig 9)

**Claims 13, 26:** Mindes teaches a user interface that includes a set top box. (322)

**Claim 15:** Mindes teaches a user interface that includes a computer. (302)

**Claims 28 & 29:** Mindes teaches displaying information about the game in windows. (Col 6, 33-38) While not disclosed in connection with a set top box, these windows serve to separate the information concerning different races, thus reducing player confusion. It

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would have been obvious to one of ordinary skill in the art at the time of the invention to have displayed the projected effects information in a window on a television in order to separate the information concerning different races, thus reducing player confusion.

**Claims 32-62:** Claims 32-62 are merely a restatement of claims 1-31 specifying electronic circuitry to perform the functions described therein. Hirsimaki fails to teach use of electronic circuitry to perform the input, calculation, or display functions. Mindes teaches using an electronic digital computer (300) to perform such functions. Electronic digital computers are extremely well known to the art. They are used to automate manual functions involving input, calculation, and display of data. It would have been obvious to one of ordinary skill in the art at the time of the invention to have used electronic circuitry (i.e., an electronic digital computer) to perform the input, calculation and display functions described in order to automate the manual process described in Hirsimaki.

### *Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Reference Name	US Patent Number	Applicability
Hirata et al.	5,501,45	Displays changed odds before accepting bets
Kinoshita et al.	5,967,894	Displays odds
Schmidt	3,672,656	Electronic slide rule

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corbett B. Coburn whose telephone number is (703) 305-3319.

The examiner can normally be reached on 8-5:30, Monday-Friday, alternate Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



cbc

April 2, 2003



S. THOMAS HUGHES  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700